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wards joined in a deed thereof, only on his agreement to build her another house of equal value, and at the time thereof he was not in debt, his subsequent conveyance of a lot to her, and building thereon of a house of equal value, was on a valuable consideration, and not in fraud of his then existing creditors.

[Ed. Note.—For other cases, see *Fraudulent Conveyances*, Cent. Dig. §§ 243-288; Dec. Dig. § 95.* 6 Va.-W. Va. Enc. Dig. 611.]

Appeal from Circuit Court, Wise County.

Suit by Ashworth and others against Brown and others. From an adverse decree, complainants appeal. Affirmed.

SUTHERLAND *v.* EMSWILLER.

Nov. 17, 1910.

[69 S. E. 363.]

Frauds, Statute of (§ 56*)—Parol Boundary Agreement—Transfer of Title.—Where the deeds to plaintiff and defendant from their common grantor established the dividing line as the middle line of a ten-foot alley between the two lots conveyed, the fact that prior to the deed to plaintiff the common grantor and defendant agreed by parol that the division line should be nearer plaintiff's side of the alley than as called for by the deeds, and built a fence there, could not prevent plaintiff from recovering possession up to the line called for by the deeds; title to land not being transferable by parol.

[Ed. Note.—For other cases, see *Frauds, Statute of*, Cent. Dig. §§ 83-89, 136-138; Dec. Dig. § 56.* 2 Va.-W. Va. Enc. Dig. 594.]

Error to Circuit Court, Shenandoah County.

Action of ejectment by Benjamin Sutherland against Fanny M. Emswiller. Judgment for defendant, and plaintiff brings error. Reversed.

SANDS & OLIVER *v.* QUIGG.

Nov. 17, 1910.

[69 S. E. 440.]

1. Set-Off and Counterclaim (§ 28*)—Right of Set-Off—Contract Action.—In an action by a subcontractor to recover a balance due under his contract, the principal contractor could set off any damages for breach of the subcontractor's contract with them.

[Ed. Note.—For other cases, see *Set-Off and Counterclaim*, Cent. Dig. §§ 47, 48; Dec. Dig. § 28.* See all 12 Va.-W. Va. Enc. Dig. 275.]

2. Contracts (§ 303*)—Performance—Excuses for Nonperformance.—That other subcontractors, as well as the principal contractor,

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.